

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

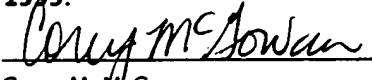
Title : Motor Operated Fast Food Service Window with Upwardly Focused
Proximity Detectors
----- CONTINUED PROSECUTION APPLICATION FILING -----
Inventors : Jason T. Epps, Dan L. Terry and Jackson G. Weaver
Serial No. : 09/004,803 § Examiner : Strimbu, G.
Filed : Jan 9, 1998 § Phone : 703-305-3979
Docket : MCES-0002-US § Art Unit : 3634



Assistant Commissioner for Patents
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Washington, D.C. 20231

CERTIFICATE OF MAILING (37 C.F.R. 1.10)

The undersigned hereby certifies that this correspondence is being deposited with the U.S. Postal Service as Express Mail in an envelope addressed to the Assistant Commissioner for Patents, Box CPA, Washington, DC 20231, Express Mail label number **EL360180360US** on **August 3, 1999.**


Corey M. McGowan

**37 C.F.R. 1.132 DECLARATION OF STEVE HALLIBURTON
ESTABLISHMENT NON-OBVIOUSNESS**

I, Steve Halliburton, declare that:

1. I am a citizen of Harris county, in the state of Texas in the United States of America, and I reside at 11026 Sherry Lane, Houston, Texas 77041.
2. I have read and understand the above-identified patent application, including the claims.
3. Since approximately November 1990 I have been, and am currently, employed by M.C.E. Systems Corporation (hereinafter Applicant).
4. My current position is Design Engineer.
5. My duties as Design Engineer include the design, testing and construction of fast food service windows. My duties also include the evaluation of fast food service windows manufactured by organizations other than Applicant.

6. Over the past approximately eight and one-half (8½) years, I have obtained a knowledge of the fast food service window industry as would be expected of one of ordinary skill in the field.
7. As indicated by the lower-left figure on page 3 of the Reltec Equipment catalog, the 4850-10-10 fast food service window utilizes a sensing element which is focused straight out from the window unit. (See attached Information Disclosure Statement and PTO Form 1449.)
8. A fast food service window using sensing elements such as those identified in paragraph 7, depend on motion toward the system to activate (open) the fast food service window. Thus, any employee movement in the area close to the system tends to cause window activation. Because of the close working quarters of the fast food service window environment, this sensor arrangement generates many unintentional opening actions.
9. In some cases, a fast food service window using sensing elements such as those identified in paragraph 7 may be sensitive to different colors of an employee's uniform or pants. For example, lighter colored clothing may cause window activation at a greater distance than darker colored clothing. This effect contributes to unintentional opening actions.
10. Advantages of a fast food service window using upwardly focused sensing elements in accordance with the invention include a significant reduction in unintentional opening actions because only product or goods being passed above or over the sensors activate (open) the window. In addition, the window remains open as long as product or employee is in the serving area.
undefined in declaration; no probative value
11. Based on approximately eight and one-half (8½) years experience in the fast food service window industry, the use of sensing elements focused straight out do not render Applicant's fast food service window incorporating upwardly focused proximity detectors obvious because it would not have been obvious that the operational advantages of a sensor system using upwardly focused sensors (see paragraph 10) would overcome the drawbacks to a sensor system employing sensors focused straight out (see paragraphs 8 and 9).
no basis provided for arriving at conclusion of obv. Further, fails to address rej. of record.

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true. I declare that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.



Steven Halliburton
Design Engineer

8-3-99

Date